IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL

CRIMINAL APPEAL No.1701 of 2001
(Old No. 1829 of 1991)

Bhuwan Saha S/o Girdhari Lal,
R/o Jaruri Bazar, P.S. Ranikhet,
District Almora ... Appellant

Versus

State of U.P. ... Opposite Party

Dated: March 28, 2007

None is present for the appellant
Sri Nandan Arya, learned AGA for the State

HON. DHARAM VEER, J.

This appeal has been preferred against the judgment and order dated 01.07.1991 passed by Sessions Judge, Pithoragarh in Sessions Trial No. 01 of 1991, State Vs. Bhuwan Lal Shah under Section 20 of the Narcotic Drugs & Psychotropic Substance Act,1985 *(hereinafter to be referred as Act).*

2. The prosecution story in brief is that about 100 gms. Illicit Charas was recovered from the possession of the accused/appellant on 7.9.1990 at about 6:15 p.m. near Inter College, Jhulaghat. The Sub-inspector Anand Singh Guasin was posted as Station Officer of Police Station, Jhulaghat on 7.9.1990. In the evening, he was patrolling the market of Jhulaghat and he was accompanied by Const. Madan Pal and Const. Raj Kumar Tyagi. At about 6:15 p.m., the police party head by him reached near the triangle of Ambari in Jhulaghat. Thereafter, a person stopped reaching on pucca road from downward Kutcha roadside of Government Inter College. Seeing the police personnel, he became unnerved

and flustered and instantaneously he turned back and took to his heals. The police personnel got suspected and accosted him. He was apprehended at a distance of about 15 paces by the Station Officer with the help of his subordinates who were accompanying him. On being questioned, the apprehended person disclosed his name as Bhuwan Lal Shah. From the right hand pocket of his pant, about 100 gms. Charas was recovered wrapped in a blue plastic wrapper. The accused could not produce licence for keeping the same. The recovered Charas was then sealed and there the accused was arrested. A Fard of Arrest and recovery Ex.Ka.1 was prepared by the station officer which was signed by the accompanying constables as also by the accused in token of the delivery of the copy of Fard to him. On the basis of Fard of arrest and recovery, a chick F.I.R. Ex.Ka.5 was prepared on 7.9.1990 at 19.20 hours and by means of entry in G.D. Ex.Ka.4 of the same time and date, a case under Section 20/37 of N.D.P.S. was registered against the accused. Thereafter, an enquiry was investigated against the accused and report was received to the effect that the article in question was Charas. After conclusion of the investigation, the police charge-sheeted the accused to face trial under Section 20/37 of the Act. The accused in support of his case refuted the truth of the allegations advanced against him by the prosecution and pleaded his false implication. According to him, he was falsely implicated because of previous enmity. The Sessions Judge, Pithoragarh after perusing the entire material on record punished the accused under Section 20 of the Act and accordingly convicted him for rigorous imprisonment for ten years and to pay a fine of Rs. 1.00 lac and in default of fine, further rigorous imprisonment for two

years. Feeling aggrieved, the appellant/accused has come up in appeal before this Court.

3. I have heard learned AGA for the State and perused the entire material available on record.

4. The appellant has filed this appeal which came up for hearing today before me. This Court vide order dated 16.11.2006 issued non-bailable warrant against the appellant/accused and also issued notices to the sureties. In compliance of the order passed by this Court, the C.J.M. Pithoragarh has informed that according to the report of Senior Superintendent, Central Jail, Bareilly, the appellant was released from Jail on 7.9.2002 after serving out the sentence for 10 years and for further 2 years in default of fine as awarded.

5. I have also perused the judgment and order dated 01.07.1991, the finding recorded by learned Sessions Judge, Pithoragarh as well as the evidence produced by the prosecution in support of its case. I do not find any illegality, incorrectness or impropriety in the judgment passed by learned Sessions Judge and I am in full agreement with the findings recorded by learned Sessions Judge.

6. Hence, the appeal is accordingly dismissed as infructuous. No order as to costs.

(Dharam Veer, J.)

Rajeev Dang